

DIMENSIONS IN CHUMASH

KEDOSHIM

In the Courtroom of the Mind The Mitzvah of Judging Others Favorably

לֹא תַעֲשׂוּ עֹוֹל בַּמִּשְׁפָּט לֹא תִשָּׂא פְּנֵי דָל וְלֹא תִהְדָּר פְּנֵי גֹדוֹל בְּצַדֵּק תִּשְׁפֹּט עַמִּיתְךָ

You shall not perpetrate wrong in justice, do not favor a poor man and do not honor a great man, with righteousness shall you judge your fellow.¹

BACKGROUND

Commenting on the final phrase in the verse, Rashi writes:

כמשמעו. דבר אחר, הוי דן את חבירך לכף זכות

[This is to be understood] as it sounds. Another explanation: Judge your fellow toward the scale of merit [i.e. favorably]

Rashi's second explanation, well-known to us from Pirkei Avos,² requires us to give someone else the benefit of the doubt if we should see them doing something which looks like it could be wrong, but could also be interpreted positively. The reason Rashi feels it necessary to offer two explanations of this phrase is discussed by one of the earliest commentators on Rashi, R' Avraham Bukarat:³

- ▷ All the other phrases in the verse are addressing a judge in an actual court of law, so that context would seem to indicate that this final phrase is likewise referring to that setting, hence Rashi's first explanation.
- ▷ Having said that, the fact that the earlier phrases have already discussed in detail which wrongful practices to avoid would seem to render this final phrase somewhat redundant, simply restating all the above in the positive. Therefore, Rashi includes the second explanation which gives this phrase new scope beyond the courtroom.

¹ Vayikra 19:15.

² 1:6.

³ *Sefer Zikaron*, Vayikra loc. cit.

Most interestingly, the Malbim points out that these two explanations differ not only in terms of the setting of this final phrase, but also regarding the specific meaning of the word “בְּצִדְקָה – *in righteousness*”:

- ▷ In the first explanation, the “righteousness” refers to the truthful process of justice which should be enlisted by the one doing the judging.
- ▷ The in the second explanation, the “righteousness” refers to the person being judged, namely, to assume that they are acting out of righteousness.

JUDGING OTHERS FAVORABLY – OBLIGATION OR ACT OF PIETY?

The source of Rashi’s second explanation, that the verse refers to judging others favorably, is in the Talmud in Maseches Shavuos.⁴ Given that this is stated in interpretation of a Torah command, it seems to indicate that judging others favorably is something that we are obligated to do. Indeed, the Rambam, in his Sefer Hamitzvos,⁵ includes this interpretation in his discussion of this mitzvah. However, how are we meant to reconcile this with the implication of the more familiar source for this idea – the Mishnah in Pirkei Avos? As a rule, matters mentioned in Pirkei Avos represent going beyond the letter of the law. And indeed, in his commentary to that Mishnah, the Rambam himself states that judging others favorably is “מִדְרָכֵי הַחֲסִידוּת – the ways of the pious.”⁶ Why would the Mishnah encourage me to do something as an added act of *chassidus* (piety) when the Torah has commanded me to do so as a matter of *actual law*?

This question is raised by the Chofetz Chaim.⁷ In response, he explains that a careful reading of the relevant sources will indicate that there are two separate spheres when it comes to judging others favorably, one of which is obligatory and one of which is an act of *chassidus*. Rabbeinu Yonah, in his classic work *Shaarei Teshuvah*,⁸ when discussing the mitzvah of judging others favorably, mentions specifically that this refers to someone *whom you know* to be a God-fearing person, who may occasionally sin but generally does not. By contrast, the Rambam in his commentary to Pirkei Avos states that the Mishnah is referring to someone whom you do *not know* whether he is a righteous person or not.

Accordingly, says the Chafetz Chaim, we can resolve all the sources cited above:

- ▷ The obligation to judge others favorably is in a situation where you know the person to be generally righteous.
- ▷ If you do not know the person and hence have no idea whether or not they are righteous, then to judge them favorably is a matter of *middas chassidus*.

Indeed, he adds that this distinction is reflected in the precise phraseology of the sources:

- ▷ The Gemara in Shavuos which expounds the mitzvah from our verse refers to “חֲבִירוֹךְ – *your friend*,” i.e. someone whom you know. This is likewise the phraseology employed by the Rambam in Sefer Hamitzvos.
- ▷ The Mishnah in Pirkei Avos refers to judging “כָּל אָדָם – *all people*” favorably, i.e. even those whom you do not know. This is *middas chassidus*.⁹

4 30a.

5 Positive Mitzvah 177.

6 See also *Mishneh Torah, Hilchos De’os* 5:7 where the Rambam mentions judging others favorably among the practices that are expected of a Torah scholar, again indicating that this not an actual requirement that applies to all people.

7 Introduction, positive mitzvah 3.

8 Part 3 sec. 218.

9 Likewise, the Rambam cited above in footnote 6 states that the Torah scholar judges “all people” favorably.

THE MEANING OF TZEDEK

The question we need to ask, however, is why should this mitzvah depend on your knowing the person in question? It is true that the verse uses the term “עמיתך – *your fellow*,” which could be taken to specifically denote one who is known to you as your peer in mitzvah observance, however, many other mitzvahs also use this term, with no accompanying qualification that you actively know the person to be mitzvah-observant!

In order to answer this question, let us return to the word “בצדק – *with righteousness*.” For a judge, this involves basing his verdict on what the available evidence tells him about the case. Applying this idea to the second explanation of this verse – the mitzvah of judging others favorably – we see that your judgment is likewise to be based on available evidence: for even if you do not know the precise details of the person’s act, nonetheless, you know the person! That knowledge is also “evidence” which should lead you to justly conclude (“בצדק”) that – all things being equal – his actions were permissible.¹⁰ This is why you need to know the person is God-fearing in order to be obligated in this mitzvah. For without such knowledge, you have no evidence base whatsoever, at which point judging them favorably may be a pious act, but cannot be obligated as a matter of tzedek – just and true judgment.

According to this approach, both explanations of the verse understand the word “בצדק” as referring to the process of judging truly, with the difference between them being what – or who – it is that you are judging.

JUDGING ALL PEOPLE FAVORABLY – WHY?

Having established the parameters of when judging someone favorably is an obligation and when it is *middas chassidus*, we proceed to ask: Why is it at all praiseworthy to judge someone favorably when I don’t know anything about them? What am I achieving by doing so? Of course, on a simple level, we can appreciate that this is a gesture *bein adam le’chaveiro* – between man and man, expressing a benevolent outlook towards others even without knowing them. However, R’ Yehoshua Leib Diskin¹¹ explains that there is a deeper value being served here.

It is well-known that a person is affected and influenced by their environment; a good environment will bring out the best in them and the opposite for a negative environment. However, even having chosen one’s surroundings, the quality of one’s environment will yet depend significantly on one’s outlook concerning those who surround him. Everyone has positive and negative qualities. The question of which to focus on and through which to define those around oneself will determine whether he is in positive or negative surroundings. In this respect, it is positive to “choose one’s neighborhood” without even moving from the spot.

When one gives another person the benefit of the doubt, he is endorsing the essential notion that those whom he encounters and with whom he interacts are positive people. This will in turn, encourage him to likewise strive for goodness in his own life. In this respect, we understand why the Mishnah’s exhortation to judge all people favorably follows on from the call to “make for yourself a Rav, and acquire for yourself a friend.”¹² The benefit of those acquisitions is that they encourage a person to become his best, and the same is true for the third instruction – develop a positive view of your surroundings, even without definite knowledge one way or the other, for that will encourage you to develop yourself accordingly.

It turns out that the value of judging others favorably lies not only in the realm of *bein adam le’chaveiro*, but is also of major significance and benefit *bein adam le’atzmo* – in a person’s obligation toward themselves.

¹⁰ Notably, Rabbeinu Yonah writes that the obligation to judge such a person favorably is specifically if the situation could be interpreted equally in a positive or negative light. Where the situation leans more toward the conclusion that the person sinned, the obligation is to suspend judgment. This too, is *tzedek*, for in truth, one cannot know whether this was a lapse – as the situation would seem indicate, or a permissible act – in keeping with the person’s general conduct. In this situation, the notion of actively judging the person favorably becomes an act of *middas chassidus*, as stated by Rabbeinu Yonah himself in his commentary to Pirkei Avos loc. cit.

¹¹ *Al HaTorah*, Vayikra 19:15.

¹² Pirkei Avos loc. cit.